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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,647	03/15/2004	Martin Wyeth	3011-1003	8088

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EXAMINER	
SHAH, MILAP	

ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/799,647	WYETH, MARTIN	
	Examiner	Art Unit	
	Milap Shah	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 March 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *10-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *10-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This action is in response to the amendment filed on March 26, 2007. The Examiner acknowledges that claims 1-9 were canceled and new claims 10-12 were added. Therefore, claims 10-12 are currently pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takeuchi et al. (U.S. Patent No. 5,338,036).

Claim 10: Takeuchi et al. disclose the invention substantially as claimed including an apparatus usable to detect when a golf ball is hit off a golf tee comprising a motion sensing means (i.e. equivalent to a radar device) which detects a swing speed of a golf club head towards the tee and produces a first signal corresponding to said speed (column 2, lines 60-62) and a microphone for producing a second signal in response to detecting the sound of the golf club striking a golf ball (column 2, lines 58-60). Takeuchi et al. further discloses a monitoring means for detecting a coincidence between the two signals, where the monitoring means produces an output signal (i.e. a judgment) only if it detects a coincidence between the two signals (column 2, lines 62-64). Takeuchi et al. further disclose the second signal (i.e. the impact of the golf ball) must be above a predetermined threshold for it to be

considered a valid swing (column 2, line 64 – column 3, line 7). Takeuchi et al., however, fails to explicitly disclose a specific manner in which the threshold value of comparator 5 is set, more specifically, fails to vary this threshold in accordance with the amplitude of the first signal. Regardless of this deficiency it would have been notoriously well known in the art to have dynamically or variably modified the threshold for comparator 5 in accordance with the amplitude of the first signal (i.e. the swing speed) for at least the reason that different golf shots require different swing speed, thus, when a golfer is performing a putt, the threshold level must be variable to a lower level since it is well known the sound of the ball being struck during a putt will be considerably lower then if a golfer was driving the ball. Takeuchi et al. provides motivation for such a modification in the disclosure that the current disclosed threshold level is set to "avoid erratic judgment possibly by slight motion of the player" (column 6, lines 2-4). Thus, implementing different golf shots would naturally require the threshold value to be modified based on the swing speeds of said different golf shots. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Takeuchi et al. with a dynamically or variably changing threshold value as discussed above at least for the purpose of accommodating different types of golf shots in the golfing system disclosed, since a plurality of different golf shots are possible where some may have a slower swing speed then others. Note: the tee being on an "automatic golf teeing machine" is considered intended use.

Claim 11: It appears that the range of values claimed are the typical range of values for a struck golf ball, thus, they are considered obvious and are given no patentable weight unless otherwise disclosed by the Applicant that these specified ranges produce any unexpected

results. It is well known in the art (such as in U.S. Patent No. 6,589,124) for a golf ball being struck to have its audible frequency range between 2khz and 5khz.

Claim 12: Takeuchi et al. as disclosed above discloses the invention substantially as claimed except for explicitly disclosing the scenario where the monitoring means only produces the output when the detection determines the first signal is at or close to its peak level. However, regardless of this deficiency, it appears such a modification is only a matter of obvious design choice. As discussed above, it has been established that it would have been obvious to variably change the threshold to determine a coincidence based on the amplitude of the first signal, where it appears the designer of such a system is capable of setting that threshold only when the first signal is at or close to its peak if the designer so wishes, where such a modification appears to be only a design consideration for the purpose of only producing an output when the most desirable scenario arises. The Applicant has not disclosed that such specific feature solves any stated problem or is for any particular reason and it appears the invention would have worked equally well if the first signal only needed to be at half peak level. Therefore, it would have been prima facie obvious to obtain the invention as specified in claim 12.

Response to Arguments

Applicant's arguments with respect to claims 10-12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milap Shah whose telephone number is (571) 272-1723. The examiner can normally be reached on M-F: 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.B.S.

/Scott Jones/
Primary Examiner, Art Unit 3714